THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.21281 of 2006

Date : 12-10-2006

Between:

Smt.Unnam Madhuri w/o.Unnam Rajeswar Rao .. Petitioner

And

Municipal Corporation of Anantapur, represented by its Commissioner, Municipal Office, Anantapur, Anantapur District. .. Respondent

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.21281 of 2006

ORDER:-

The matter is coming up for admission.

Heard Sri Goalla Seshadri, the Counsel representing the writ petitioner and Sri Newton, the standing Counsel representing respondent.

The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent in trying to demolish the building constructed vide permit No.123/2005-G-2 dated 14-4-2005 in Plot No.10 in Survey No.437, Ward No.28, Tharakanath Colony, Anantapur without conducting proper enuiry on the explanation submitted by the petitioner in pursuance to the notice dated 2-9-2006 vide No.UCD/B.A. No.01/2006 under Section 452 of the H.M.C.Act as arbitrary, illegal and against the principles of natural justice and to pass such other suitable orders.

It is stated that the petitioner is the absolute owner of the land and building in question, the subject matter of the Writ Petition, having purchased the same by virtue of a registered sale deed dated 25-2-2005. Several other factual details also had been narrated. It is also stated

that the petitioner obtained permission dated 14-4-2005 vide permit No.123/2005/G2 from the Municipal Corporation of Anantapur for construction of residential building by paying requisite permit fee as per Rules. It is also stated that after sanctioning the said permission, the petitioner started construction within the stipulated period and completed the same and the building was also assessed to tax. It is further stated that the respondent officials issued notice on 2-9-2006 under Section 452 of the Hyderabad Municipal Corporation Act stating that the building constructed is in deviation of the sanctioned plan and called the petitioner to attend the office of the respondent to show cause why building or such portion of the building as is found contrary to the sanctioned plan could not be removed. It is also stated that the petitioner attended the office of the respondent Corporation on 4-9-2006 and explained the facts and circumstances and submitted written explanation stating that the petitioner had not violated the conditions imposed in the sanctioned plan. It is also stated that after receiving the explanation, the officials of the respondent without proper enquiry, without issuing any orders on such explanation, further threatened to demolish the entire building. The said action of the respondent in trying to demolish the building without following the due process of law and without

passing any order on the explanation submitted by the petitioner, these aspects are being questioned in the present Writ Petition.

In view of the facts and circumstances especially in the light of the stand taken by the writ petitioner that the writ petitioner, in fact, had submitted explanation, the respondent is bound to consider the same and take appropriate decision in this regard. It is also needless to say that the further procedure contemplated under the provisions of the Hyderabad Municipal Corporation Act 1955 also to be followed. It is needless to say that until and unless the procedure is followed, the demotion activity cannot be taken up.

In view of the same, the Writ Petition is disposed of directing the respondent not to proceed with any demolition activity in relation to the subject matter of the Writ Petition unless and until the due process of law is followed in accordance with the provisions of the Hyderabad Municipal Corporation Act 1955. No order as to costs.

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Justice P.S. Narayana

Date : 12-10-2006

Note:
Communicate the operative
portion of the order by wire
at party’s costs.

smr